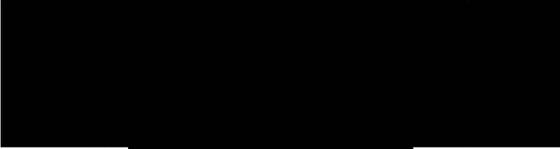


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invasion of personal privacy**



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FILE: [REDACTED]  
[WAC 05.208 82607]

Office: California Service Center

Date: **DEC 27 2006**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: SELF-REPRESENTED

**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The record reveals that the applicant filed an initial TPS application on October 24, 2001, under CIS receipt number SRC.02 037 56450. The director denied that application on August 16, 2003, because the applicant failed to appear for a scheduled fingerprinting. The director, therefore, considered that application abandoned and denied the application. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen or reconsider.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 27, 2005, under CIS receipt number WAC 05 208 82607, and indicated that he was re-registering for TPS. The director denied the re-registration application, on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant states that he does not understand the reasons for the denial of his TPS applications. With the appeal, in an attempt to establish the applicant's eligibility for TPS, the applicant submits a copy of: an Employment Authorization Card which expires September 9, 2003; 2 CIS receipt notices, dated November 15, 2001; 3 completed Forms – 821; 3 completed Form – 765; a letter from Vilma Nohemy Molina, dated September 27, 2001, stating that the applicant has been living at her apartment since November 17, 2000; an affidavit (unsigned by the affiant, but signed and notarized by a notary) stating that the applicant entered the United States on November 2<sup>nd</sup> 2000; a Cedula, with an English translation; a birth certificate (in Spanish) with an English translation; 2 CIS receipt notices, dated November 1, 2002; an Employment Authorization Card which expires September 9, 2002; a U.S. Post Office Track & Confirm status form indicating that a package was delivered on August 4, 2003, in Mestique, TX 75185; a U.S. Postal Service certified mail receipt; a U.S. Postal Service express mail receipt, date stamped August 1, 2003; a CIS Notice of Intent to Deny, dated July 5, 2003; medical records from Merfy Medical Office, indicating treatment on December 15, 2000, May 23, 2001; November 14, 2001; January 16, 2002; November 29, 2002; an unsigned retail installment contract for [REDACTED] dated February 5, 2002; and a Florida state Identification card.

However, if the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish his continuous residence and continuous physical presence in the United States during the requisite period. It is noted that the applicant stated in his initial Form I-821, Application for Temporary Protected Status, and on his initial Form I-765, Application for Employment Authorization, that he entered the United States on November 02, 2000. However, the applicant submitted the biographic page of his El Salvador passport that indicates that the passport was issued

in San Miguel on March 29, 2001. The discrepancy puts into question whether the applicant entered the United States in November 2000 as he claims. It is the applicant's responsibility to address inconsistencies between his application and his supporting documentation. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies in the entry date in the record and the issuance of his passport. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish his continuous residence and continuous physical presence in the United States during the requisite period. Therefore, the application will also be denied for these reasons.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed.